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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,710	02/14/2002	Andrew Sutherland	103140-0014U	8378
24267	7590	05/20/2004		
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER BATAILLE, PIERRE MICHE	
			ART UNIT	PAPER NUMBER
			2186	

DATE MAILED: 05/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/075,710

Applicant(s)

SUTHERLAND ET AL.

Examiner

Pierre-Michel Bataille

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 15, 19-26 and 34 is/are rejected.
- 7) ☒ Claim(s) 8-14, 16-18, 27-33, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. This Office Action is taken in regards to examination of this instant application.

Claims 1-36 are present for examination.

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by US 20020188657.

With respect to claims 1 and 19-20, Traversat teaches a plurality of file storage nodes that are distributed on and communicate peer-to-peer over a network (plurality of peer nodes configured to implement a peer-to-peer environment on a network according to a peer-to-peer platform) [abstract; Fig. 13-14 and 19-20]; a storage coordinator (peer-to-peer platform/application layer) that manages file storage on the plurality of file storage nodes [paragraph 0035], the storage coordinator designating selected groups of

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nodes (peer groups 210A, 210B) within the plurality of files storage nodes [paragraph 0031] and directing the nodes into a given group to communicate peer-to-peer to replicate associated group files [paragraphs 0038; 0097; 0133].

With respect to claims 2 and 21, Traversat teaches an administrative console (a discovery service in the core peer-to-peer platform) that administers policies set by an administrator, providing policies to the storage coordinator [paragraph 00267] and the storage coordinator designating the groups in accordance with the policies provided by the administrative console [paragraphs 0123-0124].

5. Claims 1-7, 15, 19-26, and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0145086 (O'Reilly).

With respect to claims 1 and 19-20, O'Reilly teaches a plurality of file storage nodes that are distributed on and communicate peer-to-peer over a network (***Peer-Based Storage Network***) [abstract; Fig. 14-15; paragraph 41]; a storage coordinator (***dynamic allocation controller DAC***) that manages file storage on the plurality of file storage nodes (***DAC controls the allocation of segments of the storage pool***) [p. 0049], the storage coordinator designating selected groups of nodes within the plurality of files storage nodes (***storage pools***) [P. 0050] and directing the nodes into a given group to communicate peer-to-peer to replicate associated group files [paragraph 0042; P. 0085-0089].

With respect to claims 2 and 21, O'Reilly teaches an administrative console (***policy administration interface (PAI)***) that administers policies set by an

administrator (***system administrator***), providing policies to the storage coordinator [***P. 0058-0059; 0049; 0068***] and the storage coordinator designating the groups in accordance with the policies provided by the administrative console [***P. 0049; 0050***].

With respect to claims 3 and 22, O'Reilly teaches the administrative console setting policies that determine a predetermined number of minimum number of storage nodes in the group (***the addition or subtraction/failure of storage elements in a storage pool as the policy permits increasing number of elements***) [***P. 0050***] and the storage coordinator selecting at least the predetermined minimum number of nodes for each of the respective groups [***P. 0050***].

With respect to claims 4 and 23, O'Reilly teaches the administrative console providing to the storage coordinator policies that determine location of at least one of the nodes in a group relative to the other nodes in the group (***tracking or locating agent and periodically updates allocation (addition or failure/failure of storage elements)***) and the storage coordinator selecting the nodes for the respective groups in accordance with the applicable policies concerning location [***P. 0055***].

With respect to claims 5 and 24, O'Reilly teaches the storage coordinator being a member of a cluster of storage coordinators that communicate peer-to-peer and share the managing of the file storage on the plurality of file storage nodes (***a primary or active DAC and a backup DAC***) [***P. 0050***].

***With respect to claims 6-7 and 25-26***, O'Reilly teaches a plurality of remote storage nodes that communicate peer-to-peer, remote storage coordinator that

designate selected groups of nodes with administrative console providing policies to govern the operation of the remote storage coordinator **[P. 50]**.

With respect to claims 15 and 34, O'Reilly teaches administrative console providing policies that relate to one or more of time constraints, interval constraints, and bandwidth constraints **[P. 0059-0059]**.

***Allowable Subject Matter***

6. Claims 8-14, 16-18, 27-33, and 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 20020099914 (Matsunami et al) teaching method of creating a storage area & storage device.

US 20030079018 (Lolayekar et al) teaching load balancing in a storage network.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Michel Bataille whose telephone number is (703) 305-0134. The examiner can normally be reached on Tue-Fri (7:30A to 6:00P).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew M. Kim can be reached on (703) 305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre-Michel Bataille  
Primary Examiner  
Art Unit 2186

May 15, 2004